

IN THE SENATE

SENATE BILL NO. 1315

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO VITAL STATISTICS; AMENDING SECTION 39-250, IDAHO CODE, TO PROVIDE THAT AN APPLICANT HAS THE RIGHT TO PETITION A COURT FOR AN ORDER ESTABLISHING CERTAIN FACTS FOR AMENDING A VITAL RECORD UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-267, IDAHO CODE, TO PROVIDE THAT AN ORDER ENTERED FOLLOWING CERTAIN PROCEDURE SHALL BE ACCEPTABLE EVIDENCE FOR ESTABLISHING A DELAYED CERTIFICATE OF BIRTH OR DEATH AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-278, IDAHO CODE, TO PROVIDE PROCEDURE FOR A COURT ORDER FOR DELAYED REGISTRATION OR AMENDMENT OF VITAL RECORD.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-250, Idaho Code, be, and the same is hereby amended to read as follows:

39-250. COMPLETION AND CORRECTION OF CERTIFICATES -- PROCEDURE -- OTHER ALTERATIONS PROHIBITED. A certificate of any event shall be completed, corrected, amended or otherwise altered after being filed with the vital statistics unit only in accordance with this chapter and rules promulgated by the board.

(~~a~~1) A certificate that is amended under the provisions of this section shall be marked "amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be filed with or made a part of the record. The department shall prescribe by rule the conditions under which additions or minor corrections may be made to certificates or records within one (1) year after the date of the event without the certificate being marked "amended."

(~~b~~2) Upon receipt of a notarized voluntary acknowledgment of paternity, the state registrar shall amend the certificate of birth to show such paternity if paternity is not already shown on the certificate of birth, and change the child's surname to that of the father, if both parents so request. Such certificate shall not be marked "amended."

(~~e~~3) Upon receipt of both a notarized affidavit of nonpaternity signed by the husband attesting that he is not the father, and a notarized acknowledgment of paternity signed by the mother and the alleged father attesting that the alleged father is the father, the state registrar shall amend the certificate of birth to show such paternity, and change the child's name, if so requested by the mother and the alleged father. Such certificate shall not be marked "amended."

(~~e~~4) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or the parent(s), guardian, or legal representative,

1 the state registrar shall amend the certificate of birth to show the new
2 name.

3 (~~e~~5) When an applicant does not submit the minimum documentation
4 required in the rules for amending a vital record in a manner otherwise
5 permitted by rule, or when the state registrar has reasonable cause to
6 question the validity or adequacy of the applicant's sworn statements or the
7 documentary evidence, and if the deficiencies are not corrected, the state
8 registrar shall not amend the vital record and shall advise the applicant
9 of the reason for this action and shall further advise the applicant of the
10 right to ~~appeal to~~ petition a court of competent jurisdiction for an order
11 establishing the facts necessary to make the requested amendment.

12 (~~f~~6) If an acknowledgment of paternity or affidavit of nonpaternity
13 is rescinded pursuant to section 7-1106, Idaho Code, and the certificate of
14 birth had been prepared or amended in accordance with the acknowledgment,
15 the state registrar shall not release any copies of the certificate of birth
16 except as required for a legal proceeding until a court order determining
17 paternity has been provided to the state registrar. If the mother was
18 married at the time of either conception or birth, or between conception and
19 birth, the court shall also determine if the husband is the father of the
20 child.

21 SECTION 2. That Section 39-267, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 39-267. DELAYED REGISTRATION. Any certificate required to be filed
24 under this chapter accepted for filing after the time prescribed by the board
25 shall be filed in accordance with the minimum standards prescribed by the
26 national agency in charge of vital statistics.

27 (~~a~~1) If a delayed certificate of birth is rejected under the provisions
28 prescribed, a petition signed and sworn to by the petitioner may be filed
29 with a court of competent jurisdiction for an order establishing a record of
30 the date and place of birth and the parentage of the person whose birth is to
31 be registered. ~~Such An~~ order entered following the procedure established in
32 section 39-278, Idaho Code, shall be acceptable evidence for establishing a
33 delayed certificate of birth in the vital statistics unit.

34 (~~b~~2) If a delayed certificate of death is rejected under the provisions
35 prescribed, a petition signed and sworn to by the petitioner may be filed
36 with a court of competent jurisdiction for an order establishing a record of
37 the date and place of death. ~~Such An~~ order entered following the procedure
38 established in section 39-278, Idaho Code, shall be acceptable evidence for
39 establishing a delayed certificate of death.

40 SECTION 3. That Chapter 2, Title 39, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and
42 designated as Section 39-278, Idaho Code, and to read as follows:

43 39-278. PROCEDURE FOR DELAYED REGISTRATION OR AMENDMENT OF VITAL
44 RECORD. (1) Following exhaustion of any administrative procedures or
45 remedies provided by this chapter or by department rule, if an applicant
46 has been denied a request to amend a vital record as provided by section
47 39-250(5), Idaho Code, or because the item for which an amendment is sought

1 has already been once administratively denied, or if a delayed registration
2 is rejected, including as provided in section 39-267, Idaho Code, the
3 applicant may petition a court of competent jurisdiction of this state for an
4 order establishing the facts necessary to establish or amend a vital record
5 as provided in this section.

6 (2) The petition must be verified and must allege at least:

7 (a) If the petition is for a delayed registration of birth:

8 (i) That the person for whom the delayed certificate is requested
9 was born in this state;

10 (ii) That the person's birth is not registered in another state or
11 country;

12 (iii) That a record for the person's birth cannot be found in the
13 state's vital records;

14 (iv) That despite diligent efforts the petitioner was unable to
15 obtain the information and evidentiary documents required for the
16 creation and registration of a delayed certificate of birth;

17 (v) That the state registrar has issued a final rejection of the
18 application for a delayed certificate of birth; and

19 (vi) The following information:

20 1. The original full name and sex of the registrant;

21 2. The date of birth and place of birth, including the:

22 (A) Facility;

23 (B) City, town or location;

24 (C) County; and

25 3. The full maiden name of the mother; and

26 4. The full name of the father, unless the registrant was
27 born out of wedlock.

28 (b) If the petition is for a delayed registration of death or
29 stillbirth:

30 (i) That the person for whom the delayed certificate is requested
31 died in this state;

32 (ii) That the person's death is not registered in another state or
33 country;

34 (iii) That a record for the person's death cannot be found in the
35 state's vital records;

36 (iv) That despite diligent efforts the petitioner was unable to
37 obtain the information and evidentiary documents required for the
38 creation and registration of a delayed certificate of death;

39 (v) That the state registrar has issued a final rejection of the
40 application for a delayed certificate of death; and

41 (vi) The following information:

42 1. The full name and sex of the deceased;

43 2. The date and place of death, including the:

44 (A) Facility;

45 (B) City, town or location;

46 (C) County; and

47 3. For a stillbirth:

48 (A) The full maiden name of the mother; and

49 (B) The full name of the father, unless the mother was
50 not married.

1 (c) If the petition is for another amendment to a vital record, in a
2 manner otherwise permitted by department rule:

3 (i) The identity of the record registered with the state
4 registrar and the item in the record the petitioner requests to be
5 amended;

6 (ii) The change requested and the purpose of the amendment;

7 (iii) The rule under which the amendment is otherwise permitted;
8 and

9 (iv) That the state registrar has issued a final rejection of the
10 application for the requested amendment and the reason for the
11 rejection.

12 (3) The petitioner must attach all evidentiary documents presented to
13 the registrar and the written final letter of denial or rejection from the
14 registrar.

15 (4) The petitioner must provide a complete copy of the petition,
16 together with notice of the date, time and place of the hearing, by mailing
17 a copy thereof at least fourteen (14) days before the time set for the
18 hearing, by certified, registered or ordinary first class mail, to the state
19 registrar at the address given in the written final letter of denial or
20 rejection. The state registrar or an authorized representative may appear
21 and present evidence at the hearing.

22 (5) If the court finds from the evidence presented that:

23 (a) The person for whom a delayed certificate of birth is requested was
24 born in this state, it shall make findings as to:

25 (i) The original full name and sex of the registrant;

26 (ii) The date of birth and place of birth, including the:

27 1. Facility;

28 2. City, town or location;

29 3. County; and

30 (iii) The full maiden name of the mother; and

31 (iv) The full name of the father, unless the registrant was born
32 out of wedlock.

33 (b) The person for whom a delayed certificate of death is requested died
34 in this state, it shall make findings as to:

35 (i) The full name and sex of the deceased; and

36 (ii) The date and place of death, including the:

37 1. Facility;

38 2. City, town or location; and

39 3. County.

40 (c) The person requesting any other amendment to a vital record in
41 a manner otherwise permitted by department rule has established the
42 facts necessary for the amendment and the amendment is otherwise
43 appropriate, it shall make an order amending the item in the vital
44 record as requested.

45 (6) The order of the court shall include a description of the evidence
46 presented and the date of the court's action.

47 (7) The order of the court shall not alter the fees otherwise required
48 by the registrar for the requested amendment, or the time frames otherwise
49 provided for the registrar to administratively establish or make the
50 amendment requested.